

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 246 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT INDUSTRIAL DEVELOPMENT CORPORATION (ACCOUNTS DEPTT.)

Versus

COMMISSIONER OF INCOME-TAX

Appearance:

1. INCOME TAX REFERENCE No. 246 of 1991
MR RK PATEL for Petitioner
MR MIHIR H JOSHI WITH MR MANISH R BHATT for Respondent
-

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 16/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the assessee, the following questions have been referred for the opinion of this Court in respect of assessment year 1983-84 :-

"(1) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the appellant's income was not exempt under Article 289 of the Constitution of India as claimed for ?

(2) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in not exempting the appellant's income u/s. 10(20A) of the Act ?"

2. We have heard Mr RK Patel, learned counsel for the applicant-assessee and Mr Mihir H Joshi, learned counsel for the revenue.

3. As far as question No. 1 is concerned, the learned counsel for the assessee states that the assessee does not press this question just as was not pressed before the Apex Court when the assessee had to go to the Apex court in the case which is reported in [(1997) 227 ITR 414]]. The learned counsel for the assessee points out that the aforesaid question is not required to be pressed as the Apex court has already held in favour of the assessee, on the other question about exemption available to the assessee under Section 10(2)A) of the Income-tax Act, 1961.

4. Coming to question No. 2, the learned counsel invited our attention to the decision of the Apex Court in the case of this very assessee in (1997) 227 ITR 414 wherein the Apex Court has held that the authorities constituted by law for facilitating all kinds of development of cities, towns and villages for public purposes should not be subjected to the liability to pay income-tax and that, therefore, the assessee was entitled to exemption from tax under Section 10(20A) of the Act.

5. Following the aforesaid decision, our answer to question No. 2 is in the negative i.e. in favour of the assessee and against the revenue.

6. The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-